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REASONS

FOR THE

APPOINTMENT OF A COMMITTEE,

TO

INVESTIGATE THE PRUDENTIAL AFFAIRS

OF THE

OLD SOUTH CHURCH

IN BOSTON.

TO WHICH ARE ADDED

COPIES OF MRS. NORTON'S DEEDS.

PUBLIC LIBRARY OF THE CITY OF BOSTON

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Mar. 21, 1889

INTRODUCTORY.

At the annual meeting of the Old South Church Corporation, in April, A. D., 1858, the amount of indebtedness of the Corporation was shown to be nearly Fifty-One Thousand ($51,000) Dollars.

This induced an examination into the prudential affairs of the society, resulting in the conviction that its business had, in many instances, been transacted in a very irregular manner, (in some cases illegally,) and these irregularities, it was feared, might lead to unpleasant results.

At a subsequent meeting, held June 3, 1858, a motion was offered for the appointment of a committee to investigate the affairs of the Society, and report at a future meeting. This motion was negatived by an emphatic majority,—and such was the zeal of some of the officers, who are not in the habit of voting on such occasions, that they particularly requested to have their names enrolled among the nays.

A question might here be raised in relation to this vote. Why not renew the motion at some future time, when the Society should be disposed to act upon it, rather than resort to the press as a means of bringing up the subject anew?

For this reason: the well-known apathy, manifested by members generally, in the business affairs of corporations,—particularly evinced in the melancholy history of the past few years,—shows the difficulty of obtaining a quorum at the business meetings. The requisite number for a quorum in this instance (fifteen) was made up in such a peculiar, well-organized manner, as almost entirely to forbid any change in the government, or any investigation of its proceedings. Therefore the alternative was either to resort to judicial interference, or to a publication of the recorded proceedings, with a hope of calling the attention of the Pew Proprietors to the necessity of adopting such remedial measures as they might, on a thorough examination, think proper to pursue.

The history of these transactions has no immediate relation to the theological affairs of this institution, but are not their moral and religious effects a subject for grave consideration with those Pew Proprietors, ("whether church members or otherwise,") who sanctioned them?

It should be borne in mind by all persons interested, that the property held by this society in trust for various specified purposes, amounts to about *Half a Million Dollars* in value.

JOSEPH BALLARD.

Boston, Jan. 1, 1859.

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STATEMENT.

At a special meeting of the Proprietors of the Old South Church, held the third day of June, A. D. 1858, for the consideration of the subject of voting by proxy, and to transact such other business as might legally be brought before them, the following motion was offered by Mr. Ballard, and seconded by Mr. Crocker:

"Whereas doubts have been expressed as to the regularity of certain proceedings of this Corporation, and whereas it is important that all legal forms should be carefully observed in the management of the valuable property held by us in trust for religious and charitable purposes, it is therefore voted,—That a committee of *Five* be appointed to investigate the past proceedings of this Corporation, and all matters which may affect the legality of the present or past doings of its officers or seem to be, in any degree, a departure from a strictly lawful and economical administration of said Trust Property,—to report the result of their examination at a Special Meeting of the Pew Proprietors, to be called by the said committee for that purpose, and to propose such measures as they may deem to be expedient in the premises. And the said committee is hereby empower-

ed to take the advice of legal counsel with relation to such questions and matters as they may think proper."*

Upon the vote being taken by yeas and nays, it was negatived as follows:

NAYS.—Dea. Stoddard, *Treasurer.* Dea. Lothrop, *Clerk.* Messrs. Jellison, Homer, Blake, Johnson, Sen., Hunting, J. B. Kimball, Cheever, Howe, *Members of Standing Committee.*—Messrs. Ames, Hubbard, Leeds, Leonard, Kimball, Bigelow, *New Pew Proprietors.*—Messrs. Blake, Goodwin, Lilley, D. Kimball, Palmer.—21.

YEAS.—Messrs. Whitman, Ballard, Coverly, Brewer, U. Crocker, Waterman, U. H. Crocker, Thatcher, Bates.—9.

Had there been a deliberate discussion of so important a question, affecting as it does the vital interests of this venerable institution, or had there been a postponement of its consideration to a future occasion, those in its favor would not complain of the pre-organization, which en-masse embodied itself to crush out at once all discussion and inquiry. Nor would the writer of this feel obliged to present his reasons for a thorough investigation into the financial affairs of the Old South Corporation.

As those who preceded us in the charge of this property did, a little short of sixty years since, so let us now do,—" examine into the state of the funds of the South Church and Congregation, to endeavor to find from what source they have arisen, and the intentions of the donors." We shall find the property consists of

First. Mrs. Norton's gift of land, A. D. 1669.

Second. The amount arising from sundry donations, given by pious persons, principally for the use of the poor of the church, of which the Pastors and Deacons are trustees.†

* See note A.

† See old Extracts in Appendix.

Third. The Library, given A. D. 1758, by the Reverrend Thomas Prince, one of the pastors of the Old South Church.

Fourth. Any property which may have been acquired by the Society in its own right.

The first inquiry will be in relation to the property of Mary Norton, who, in her deed of gift 1st April, 1669, expresses that the land is given "To Captain Thos. Savage, Capt. William Davis, Mr. Hezekiah Usher, Mr. Edward Rawson, Mr. John Hull, Mr. Peter Oliver, Mr. Josiah Scottow, Mr. Edward Raynsford, Mr. Richard Trewsdall, and Mr. Jacob Elliott, and such as they shall associate to themselves, their heirs and successors forever,—for the erecting of a house for their assembling themselves together publickly to worship GOD ;—as also the erecting of a dwelling-house for such minister or ministers, as shall be by them and their successors, from time to time, orderly and regularly admitted for the pastor and teacher of the Church or assembly, and for the accommodation of the dwelling-house for the minister or ministers, as shall from time to time be chosen as aforesaid,—and for the accommodation of the meeting house with convenient passages of ingress, egress and regress for the people that shall, from time to time, assemble as aforesaid, and for no other intent, use or purpose whatever." Also, in her second deed of another piece of land to the same grantees, who were then alive, "and such as now are associated to them, or shall be associated to them, or shall be associated to that Church and Society forever, their heirs and assigns, for their publicly worshipping of GOD, for the use of their minister or ministry, orderly chosen by said Society, (being the third Church of Christ in Boston) from time to time, and at all times forever." And in her Will, she

afterwards bequeathed her dwelling-house for the use of the ministry in the said church successively forever.

The second species of trust property, denominated the Ministers and Deacons' Fund, arose from the donations of sundry persons who, in times past, directed the income of the sums given, to be distributed to the poor of the Church and Congregation, under the charge of the Ministers and Deacons.

The third and last kind of trust-property is the Library, bequeathed by that eminent scholar, Rev. Thomas Prince, renowned for his piety and learning, in which "he made great proficiency, not only in divinity, but also in most of the branches of natural science and polite literature, cultivated at that period, and in history and chronology, especially as relating to this country." "He began a collection of books and public and private papers (A. D. 1703) relating to the civil and religious history of New England, to which he continued to make valuable additions for more than fifty years. He also made a large collection of classical and theological works and books of general literature." All these he gave, at his decease, to this Church and Congregation, giving it the name of the "New England Library," under the following item, in his will:

"Whereas I have been many years collecting a number of Books, Pamphlets, Maps, Papers in print, and Manuscript, either published in New England, or pertaining to its history and public affairs, to which collection I have given the name of the New England Library, and have deposited it in the Steeple-chamber of the Old South Church;—and, as I made the collection, from a public view, and desire that the memory of many important transactions might be preserved, which otherwise would be lost,—I hereby bequeath all the said col-

lection to the said Old South Church forever. But to the end that the same may be kept entire, I desire that this collection may always be kept in a different apartment from the other books, and that it may be so made that no person shall borrow any book or paper therefrom, but that any person whom the pastors and deacons of said Church, for the time being, shall approve of, may have access thereto, and take copies therefrom."

The last item,—the property of the Society. This consists of the Chapel in Spring Lane, (which was purchased, it is believed, with the income of the trust funds) the organ, and other personal property, usually belonging to societies in general.

The trust property has been vastly increased in value by expenditures made upon it, with a view of enhancing its income, but the Society is as strictly accountable for the property in its present improved condition and for the income derived from it, as it was for the original fund, and is bound to apply it solely to the purposes of the original trust, and to no other purposes whatever.

The Society having been, by the bounty of Mrs. Norton, supplied with parsonage houses for the accommodation of its ministers, which was the principal benefit derived from it until A. D. 1800, the amount of other parochial expenses was raised by the customary taxes of that period. In the year 1800 a part of the Society conceived a plan whereby their funds might be benefitted by building stores upon land whereon the parsonage house (formerly Mrs. Norton's residence) stood, which had been destroyed by the British troops. A question arose whether the Society could erect buildings or stores on that vacant site to let out for the purpose of applying the rent for the support of public worship, and for the benefit of said Society. This question was referred

for decision to one of the ablest jurists of that time, who gave it as his opinion, that by so appropriating the uses of the property it was only following a direction in the Will of the donor, which would not amount to a deviation from it.* The Society, at that period, appear to have been perfectly aware of the tenure by which the property was held, and were very cautious that no act of theirs should, in the slightest degree, place it in jeopardy.

From this period until A. D. 1845, the financial concerns remained under the government of the old laws, or, more properly speaking, under the "ancient usages" of all parish property—(and this, too, for many years in disregard of statute laws made expressly for the government of parishes, &c.) varied occasionally by attempts on the part of some who believed that the jurisdiction of the trust was vested exclusively in the members of the Church alone, whether proprietors of pews or not. This matter, however, has since been settled by the Supreme Court of the State of Massachusetts.

In A. D. 1845, important alterations in the real estate of the trust property, in view of improving its income, being again contemplated, the omission of conformity to the law, as above mentioned, was made apparent, rendering it necessary to apply to the legislature for an act of incorporation, which was readily granted, and to its provisions the Society is amenable for its acts.

At this point in the history of our affairs it is proper we should inquire into the rights we, as a society, have in the respective pieces of property we hold, and the duties we are obligated to perform consequent thereto. It scarcely admits of a doubt but that each portion of it,

* See old Extracts, in Appendix.

other than the Society's private property, is a special trust, with purposes as to its use decidedly defined, more particularly that important part derived from Mrs. Norton, and that every Pew Holder is, in virtue of that holding, a bona fide trustee for the same, inheriting his powers from Thomas Savage and his associates, the first grantees, and consequently has a right, and it becomes a duty, at all times to act in the management of the trust confided to him; and no power whatever can deprive him of so managing the same, in any way consistent with the laws whereby all trust property is managed.

The ministers and deacons fund may prove the most important subject for consideration, both to the Society and the Trustees. A synopsis of an agreement made many years since will show this. In the year 1800, a committee for building five stores on Washington street, was authorized to borrow the larger part of the money belonging to the ministers and deacons' fund, to pay for building the stores. That fund was then so invested as to produce nine per cent. interest, which rate of interest could not be a legal basis either for borrower or lender; therefore it was agreed between the parties that the rents and income of said five stores should be pledged to pay six per cent. on the amount borrowed, (supposed to be ten thousand dollars) and all the rents and income of the stores over and above the legal interest on said moneys invested in them, should go into the hands of the treasurer, distinct from any funds of the Society, and *should be used and applied for the purposes* set forth in the committee's report of the 20th March, A. D. 1800, (which was accepted the 3d of April, A. D. 1800,) in such manner as the church and congregation should, from time to time, vote and determine, or for such other ecclesiastical

purposes as they should order. And so desirous was the Society that this should be fully understood by them and their successors, that they had it transcribed from their records, printed, and distributed for that purpose. A true and exact copy of which is attached to this statement as an appendix.

The Library,—a subject almost lost as it is in the dust of ages, is worthy of our consideration, with an intention of yet making it, in some degree, answer the purposes of that eminent divine, historian and scholar, whose name so ennobles the history of our church. This munificent and noble gift, stands (for the time in which it was made) in its great liberality, in honorable contrast with the most generous ones of similar character which have been made in our day, which benefactions, to the everlasting honor of our age, have been so nobly responded to by their recipients, more particularly in the city of our dwelling, giving fair promise of perpetuating their blessings upon remotest posterity. The library, although it has passed through the vicissitudes of so long a period as has elapsed since A. D. 1758, is still in a good state of preservation. To use the words of Mr. Whitman, the compiler of its catalogue, "Time has injured less of the library than could have been expected; but what survives has been growing in value, and will be gratefully appreciated." Its large value, in a pecuniary sense, has been confirmed by the opinion of one well acquainted with books of antiquarian character. A few years since a much respected member and officer of this Church endeavored to awaken an interest in behalf of this library, and a committee was appointed to take the matter into consideration. A report was made, which was laid upon the table, where it has since quietly remained. In this report a recommendation

was made that there should be a small annual appropriation made for the augmentation of the library, by placing in it books of a proper character, and more suitable for the age, still keeping in sight the purposes for which the collection was formed. In addition to this, a plan was suggested for a Minister's Exchange, or Public Room, similar to the present Congregational Library, which has been recently established. In this way, it was believed, Dr. Prince's views might have been carried out to the great benefit of the world, and at the same time have conferred honor upon the Old South Society. With the exception of a valuable part loaned to the Historical Society, (repugnant to the wishes of the donor, which were that the whole collection should forever be kept entire;) these precious memorials of past ages, made still more precious by the awakening interest exhibited at the present time by the public in such matters, are insecurely kept, not even having any particular custodian or librarian,—not easily accessible for public inspection, and all this while the Society have it in their power to afford ample rooms and means for its accommodation.

Believing that the foregoing is a correct representation of the Society's Financial Concerns, especially of that portion which relates to its trust-property. We now state that its indebtedness for moneys borrowed, amounts to the large sum of nearly Fifty-one Thousand Dollars, the debt having been augmented the last year nearly Twenty Thousand Dollars. It should, however, be mentioned, that all this debt is not the result of expenditures since the act of incorporation, for prior to that time moneys had been borrowed for convenience, but never did the amount of debt reach that of the present time.

A statement will now be made of the proceedings of the Society and its officers, for the purpose of showing why doubts have arisen as to the legality of their proceedings, and the necessity of having a committee appointed to investigate into all matters and past proceedings, and devise measures for its future government; and, above all, recommend some certain plan (either by a sinking fund or otherwise) to pay off its debt and afford security against another being contracted, except under imperative circumstances, or, in other words, to adopt the spirit of the resolution before referred to.

The Treasurer of the Corporation is, by its by-laws, obligated to give such bonds for the faithful discharge of his duties "as the standing committee may require." He has never done so, nor has he been required to by the committee, thereby raising a question whether obligations given by him, and acts done by him, in behalf of the Society, are legal.*

At the annual meeting of the Corporation, held April 14, 1857, the incumbent clerk of the society was deprived of the book of records, then lawfully in his charge, and compelled to relinquish the performance of his official duties to a person, chosen in defiance of all law and precedent, as his successor.† At this meeting, without previous notice having been given, large sums of money were voted to be borrowed, donations of various sums made, and life-contracts, with both the pastors of the Society, materially altered, involving large amounts. A vote passed, authorizing an application to the legislature for a change of the Society's name. As also another vote, proposed by Mr. Lillie, "That article fifth of the By-laws be amended, by adding the words "And no person shall

* See note B.

† See note C.

be allowed to vote by proxy," which also is plainly illegal, as article seventeenth expressly declares that "No alteration or amendment shall be made in the code of By-laws, excepting at some annual or special meeting, *the notice for which shall express the intention to amend or alter the same;* nor without the assent of at least two thirds of the legal voters present at such meeting."

At this meeting, also, the salary voted by the Society as compensation to the Clerk, who was and is chosen by the Society, was designated by the Standing Committee, as a gratuity given at their pleasure, or, in other words, declaring him to be their servant, and dependent on them for his salary and term of office; whereas, upon reference to the Revised Statutes of the Commonwealth, to the act of incorporation of the Old South Church, and the By-laws made pursuant thereto, it will be seen that the office of clerk is one of much responsibility and importance, inasmuch as that officer must, before he enters upon the duties of his office, be sworn to their faithful discharge, and the validity of the whole proceedings afterwards of such corporation depends upon this qualification; nor is any latitude or discretion given by the statutes to the proceedings of the clerk, who is required "well and faithfully, from time to time, to record the acts and doings of the Corporation;" nor is he responsible to any other officer or officers of the Corporation for these acts, it being manifestly the purpose and intention to make him, the clerk, entirely independent of them all, and only answerable to the power which originally elected him.

The Standing Committee, utterly disregarding the By-laws by which they are bound to execute their official duties, setting aside the ancient or common law usages, which always hitherto have been respected by their pre-

decessors in that capacity, have assumed unconditional power over the entire affairs of the Society, as will be shown by the following acts:

By selling pews without the authority of the Society, which were especially appropriated as free seats, and were at considerable expense fitted up for that purpose. The purchasers of these six pews, without an exception, have let them out, while they and their families occupy seats in other parts of the house. One of these (the sexton) is officially provided with a pew by the Society.* Omitting any mention of the same in their annual report. Assuming jurisdiction of the pews of the proprietors, by introducing (particularly on the lower floor of the house) persons into the same upon Sabbath days without the consent of the proprietors being first obtained. Voting to annihilate the title of pew No. 86, and refund the taxes paid on the same, which pew has always unquestionably been one of the taxable pews of the Society ever since the year 1783, by which relinquishment said pew, No. 86, indirectly passed into the possession and use of one of the members of the said Standing Committee, free and clear from any tax whatever.† Without a vote of the Society, authorizing the senior pastor to be absent in Europe six months, and during such absence, agreeing that the Society should be at the charge of supplying the pulpit. Expending thirteen thousand dollars in repairs upon the meeting-house, when the Pew Proprietors intended, by their vote, to spend only three thousand. Disregarding the By-laws in expending large sums of money contrary to the rule whereby a vote of the Society is requisite to make lawful any expenditures over two thousand dollars.‡ Alter-

* See Note D. † See Note E. ‡ See Note F.

ing the pulpit and galleries in the meeting-house without special leave of the proprietors, who at various times hitherto, as the records of the Society will prove, have declared that such alterations were unnecessary and inexpedient. Approving orders and accounts of amounts larger than the Society, by their vote, authorized. Assuming unwarranted jurisdiction over the official duties of the Clerk of the Corporation, by the assumption of power to regulate the same at their pleasure and dictation; altering, in defiance of all law to the contrary, the legal term of time for which that officer was chosen, thus placing that important official upon a par with the Sexton and Organist, and other inferior officers whom they are empowered to appoint and remove for just cause.* The chairman of this committee, also, while acting as chairman of the meetings of the Society, has, at various times, used his influence in preventing motions being offered, and by a series of partial, quibbling, parliamentary ruling, embarrassed the free discussion of subjects interesting and important to the interests of the Society.†

The Society have, at various times, done and performed acts inconsistent with long-established usage, both unlawful and oppressive,—such as, materially augmenting the salaries of the pastors, who are both settled for life, (one but a few months prior to the meeting, at which the motion was made.) Donated money to societies and individuals, all without previously notifying the proprietors, in the performance of which they utterly disregarded the provisions of the Revised Statutes, chap. 20, sec. 18, thereby making the qualified voters of the Corporation liable to the requirements and responsibili-

* See Note G. † See Note H.

ties of that act. They have, under the power of "regulating the mode of voting by proxy," in the case of the election of clerk in A. D. 1857 and 1858, (by their committee,) omitted even to name for whom the proxy votes were given; and, by this arbitrary act, deprived several Pew Proprietors of their right to vote, and subsequently, illegally engrafted upon the By-laws of the Society a rule forbidding the reception of proxies altogether.* In several instances, where specific amounts of money, granted for particular purposes, have been exceeded and overpaid by their officials, the Society have, by their vote, excused such delinquencies and approved of the same. When subjects of importance have been presented for the consideration of the Society, they have, in many instances, (with the aid of the votes of the new Pew Proprietors) summarily rejected the same, or as was the case in the proxy matter, passed the vote by a series of motions and counter motions, questionable as to propriety in an excited political caucus.

At all meetings, the By-laws say that "fifteen members shall constitute a quorum," which at any time can be made up in the following manner:

One Deacon of the church who holds the office of Treasurer.

One Deacon of the church who holds the office of Clerk of the Society.

One Deacon, member of the Standing Committee and Clerk of the church organization.

Eight other members of the same Standing Committee, *Six* new Pew Proprietors, among whom is the Sexton, being *Seventeen*, or *two* over a quorum, enough to carry any measure desired, or in other words constituting a

* See Note I.

close corporation, with power to prevent, on ordinary occasions, any changes undesirable for the perpetuation of their government or measures. The By-laws of the Society are also incompatible with the statute laws of the commonwealth, in some degree, and need a revision applicable to the peculiar position of the Old South Corporation.

For these and other reasons, which might be adduced, an investigation by a competent committee was desired, to awaken the attention of the Pew Holders to the consideration of the important trusts confided to their care. It was not supposed that such a measure would result in an unfavorable implication of the character of any individual participating in those acts, but it is believed that an investigation will afford additional evidence of the long-established truth, that in most associated bodies of similar character, there is a proneness in those who conduct them, to perpetuate their power, and rule absolutely and unconditionally. In some instances this might be harmless, but in our situation, with these trusts in our care, a deviation from the right management might, at least, involve us in the charge of a dereliction of duty, if it did not prove a cause of litigation.

NOTES.

Note A, page 6.

The chairman of the meeting (who was also chairman of the Standing Committee) ruled the motion out of order, and refused to present the same for the action of the meeting, and was only persuaded by some of his friends who stated that they wished to record their *Vote* against it, that it was his duty so to do.

Note B, page 14.

This is caused by the Treasurer's office being held by the same individual who held it previously to A. D. 1845, when the act of incorporation was accepted, and is noticed to show the manner in which the imperative obligations of the law have been disregarded, and for its possible ulterior effects upon any contested differences which might hereafter involve the interests of the Corporation.

Note C, page 14.

The following extracts from the records of the transactions of the annual meeting of April 14, A. D. 1857, will elucidate the matter of the illegality of the Clerk's election. "The attention of the meeting was called by Mr. Sampson to the fact, that several proxy votes were found among the votes for Clerk. * * * It was also stated by the same gentleman that — Voting by proxy had never been done at any meeting of Pew Proprietors. * * * After remarks of S. W. Bates and others, expressing doubts as to the legality and propriety of allowing such votes to be counted, it was voted to proceed to the election of a Clerk. Mr. Loring Lothrop was chosen Clerk.

The vote was declared by the committee as follows: Mr. Loring Lothrop has seventeen votes, Mr. U. H. Crocker (Clerk) has nine votes. And four proxy votes, which not affecting the result, were not declared for which of the candidates they were cast, as no one called for the declaration." So far on this point the record goes. What are the facts? Take first the statement of Mr. Sampson, who, the record says, "declared that voting by proxy had never been done at any meeting of the Pew Proprietors," while for a period of ten years almost, (from June, 1847) Mr. John Winslow, who has been connected for nearly seventy years with the Society having a proxy from his sister, Ann Winslow, has almost constantly attended the business meetings, and at his pleasure taken a part, and voted at the same. The following is a copy of this proxy:

"BROTHER JOHN,—I wish you to attend the meetings of the Proprietors of Pews in the Old South Church, and authorize you to act in my behalf relative to any business that may come before that Corporation." "Yours,

Signed, "ANN WINSLOW."

"*Boston, June* 7, 1847.

As regards the recorded remarks of Mr. Bates, they were in fact "that professionally he was not prepared to decide the question of receiving proxies, but thought it might prevent difficulty by receiving them."

The committee above spoken of was appointed to receive, count, and declare the votes given for Clerk. How was that duty performed? and with what regard to the purity of the "ballot box?" There were thirteen votes given for the incumbent Clerk, U. H. Crocker, and seventeen for Deacon Lothrop. The proxy votes were from four Proprietors, (all for Mr. Crocker), Francis Welsh, James H. Foster, Isaac C. Brewer, and one other; the first three presented by J. Ballard, not one of which persons including the presentor, had been a Proprietor less than thirty years. The other proxy was presented by Mr. Brewster, himself an old Proprietor. By their (the committee's) dictation, unsupported by a vote of the meeting, using the words of the record "as no one called for the declaration," the name of the candidate for whom their votes were given was suppressed, while the documents themselves—which

should have been preserved among the official papers of the society—were carried off or destroyed. It thus appears, that in addition to the duties for which the committee was chosen, they assumed the power to decide the proxy case, and declare what votes they pleased. The record continues,—" Mr. Lothrop asked for time for consideration as to the acceptance of the office. Voted, that Mr. Lothrop be allowed such time as he may desire." Mr. Lothrop was then chosen Clerk pro-tem by *Hand Vote*, although the Clerk chosen the year before was present, had organized the meeting, and was ready to perform the duties, and the By-laws require that the Clerk shall be chosen by *Ballot*.

It will be remembered that this was done April 14, A. D. 1857. Deacon Lothrop accepted his office, as per record, April 17, A. D. 1857, and was sworn and qualified April 20, A. D. 1857. Section 7, chap. 20, of the Revised Statutes of Massachusetts says—" The qualified voters of every parish and incorporated religious society, organized according to the provisions of this chapter, shall meet in the month of March or April annually, at such time and place as shall be appointed by their Assessors or Standing Committee, and shall choose a Clerk and two or more Assessors, Treasurer and Collector, who shall be sworn, and such officers as they shall think necessary, all of which shall continue in office for One Year, and until others are *chosen and qualified* in their stead."

The *By-laws of Old South Church, Art.* 7, say—" The members of the Standing Committee, and every officer elected, or appointed by the Corporation, or by that committee, shall hold their respective offices for one year, and until others shall be *elected and qualified* in their stead."

It is unquestionable that the Clerk chosen in April 1856, was the legal Clerk until Deacon Lothrop was qualified according to law, even if there was no informality in the declaration of the committee, appointed to receive and declare the votes. It may be asked why the Clerk of A. D. 1856, did not retain the records, until his successor was chosen, as would have been the case in a well-ordered society. The disgraceful scenes of that meeting, are well remembered by all who were present. A determined effort, right or wrong, was made to effect the removal of that officer, and after the declaration of the vote, the record books were taken from him,

and he was thereby deprived of the power of making up his records: thus rendering illegal all the doings of that meeting, including choosing officers, increase of salaries, borrowing money, &c., &c.

Note D, page 16.

Six gallery Pews have been sold by order of the Standing Committee at the price of *Fifty Dollars each;* the reason given, when one gentleman was solicited to purchase, was that "*a few more voters were wanted.*" A great part of these Pews, many years since, reverted to the Society for non-payment of taxes. A few years since they were, by order of the Society, fitted up at an expense of about one half of the price they were sold for, with cushions, carpets, &c., to be used as free seats. A public notice was given, and the sexton notified all who came that the Pews were free. The purchasers and time of purchase were as follows, as per record: "Present at a meeting of the Standing Committee, February 6, A. D. 1858, Messrs. Jellison, Cheever, Hunting, Kimball, Blake and Howe. Sold Pew, No. 102, to Samuel Ames; No. 130, to William Learned, (sexton) at $50 each." Mr. L. is the sexton, whose office and pay are under the exclusive control of the Standing Committee. March 12, A. D. 1858; at another meeting of the same committee, "Present, Messrs. Blake, Homer, Kimball, Hunting, Cheever and Jellison Sold Pew, 106, to George Bigelow; 98, to Samuel Johnson, Jr.; 99, to Joseph Hubbard; 134, to James Leeds, at $50 each." Neither was the Society, or the public in general, notified of the intent or time of sale; and the purchasers, generally, are connected in official or social relations with the present government of the Society. In the Treasurer's Annual Report, presented to the Society at their meeting, April 13, A. D. 1858, only one Pew, Mr. Ames's, was mentioned as being sold, although Ames and Learned's Pews were sold February 6, A. D. 1858, *Sixty-Six Days* before said meeting, and those of Bigelow, Johnson, Hubbard and Leeds were sold March 12, A. D. 1858, *Thirty-Two Days* before said meeting; and, in the Standing Committee's report, *no mention of the sale was made.* It is also worthy to be remarked, that Ames, Bigelow, Hubbard, Leeds and Learned

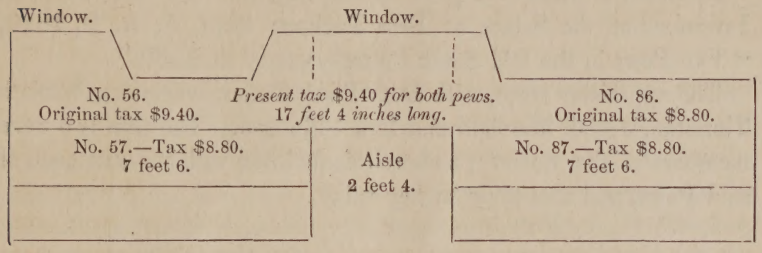
appeared at the same meeting, and acted as Pew Proprietors and trustees under Mrs. Norton's will, when the annunciation of their right to fellowship with the successors of Thomas Savage and others, had not been officially announced, and some doubts may be justly entertained whether the majority of them were not profoundly ignorant of the important trusts which appertained to this *Fifty Dollar Pew investment.*

There are still remaining in the possession of the Old South Church about *Forty Pews*, and if these can be sold in this summary manner at the option of a Standing Committee whenever it is for their interest, what security have the Proprietors that their rights will be protected?

NOTE E, page 16.

The annihilation of Pew No. 86, was performed as follows. At a meeting of the Standing Committee, Nov. 24, 1857, Present Messrs Homer, Hunting, Cheever, Kimball, Howe, Jellison and Blake," (who are all the committee except Deacon Jones and Samuel Johnson, Sen.) "The following preamble and votes were presented by Mr. Hunting for the consideration of the committee. Whereas the Standing Committee, by their vote the first day of July, A. D. 1852, directed a deed to be made in the name of Samuel Johnson," (senior) "of Pews 56 and 86 in the Old South Church, and taxes to be assessed thereon, and whereas no Pew with the number 86 existed for many years in said church, therefore voted that the said deed, No. 86, be cancelled, and *that said Pew be stricken from the list of taxable Pews in said church.* Voted that the Clerk be directed to notify Samuel Johnson, Jr. that in investigating the subject, the committee find that no Pew as is described in his deed of Pew No. 86 exists, nor did exist in the Old South Church when said deed was given, and the amount which has been assessed on said Pew No. 86, *shall be refunded to him.* The above was passed and the meeting dissolved." The Amount thus refunded for *Five Years only*, would be *Forty Four Dollars;* and if for *Forty One* years, since 1816, the time the partition was removed, it would be *Three Hundred and Sixty Dollars* without the interest. For the better understanding of this very extraordinary proceed-

ing, and to afford an easier method of arriving at the true history of Pews Nos. 56 and 86, the following diagram is annexed :



The dotted mark shows where the bounds of the Original pews were in 1783.

In 1808, Pew No. 56, was transferred to Beza Tucker. In 1816, Pew No. 86 was transferred to Beza Tucker, who by consent of the Pew Proprietors,—for the accommodation of his large family —had the partition between the two Pews removed and the Pews united, without, however, annihilating either of the Pews, as will be seen by extracts from the records below ; both of these Pews being transferred under their respective numbers in A. D. 1824, by the executors of Mr. Tucker.

Dr. Wisner, in his History of the Old South Church, alluding to the affairs of the Society after the revolutionary war, says, "The house was in a manner re-dedicated March 2nd, A. D. 1783."

January 25, 1783, two months prior to this time, Pew No. 86 was sold to Ephraim Copeland.

July 1, 1808, sold to the Old South Society.

June 1, 1816, sold to Beza Tucker.

June 11, 1824, transferred to John Kent, by Deacon Pliny Cutler and William Sewall, executors of Beza Tucker.

Aug. 6, 1852, deeded to Samuel Johnson, Senior.

Aug. 16, 1852, Samuel Johnson, Jr. as attorney for his father, DEEDED IT TO HIMSELF, in whose possession it remained until Nov. 24, 1857, when it was cancelled and stricken out of existence, by which act (if legal) it is in the free possession of Samuel Johnson, senior, one of the members of the Standing Committee.

In addition to the unquestionable existence of Pew No. 86, an extract from the inventory of Beza Tucker's estate shows that said

Pews Nos. 86 and 56 were in his possession at the time of his decease. It is as follows:

Dedham, Norfolk Co. Records, vols. 34 and 35. Extract from Inventory of the Estate of Beza Tucker: Sept. 5, A. D. 1820, "Two Pews in the Old South Church, valued at $500."

The appraisers were, with Dea. Pliny Cutler, executor, William Thurston, Josiah Marshall and Israel Munson. The first two were members of the Society, and well acquainted with the existence of said Pews, and also their money value.

As to Pew No. 56, it was first sold to Josiah Waters. Oct. 3, 1785, it was sold by his Son to Joseph Eaton.

Aug. 7, 1808, transferred to Beza Tucker.

Jan. 11, 1824, transferred to John Kent by Dea. Cutler and William Sewall, Executors.

July 1, 1852, transferred to Samuel Johnson, Sen.

The above will conclusively show with what thoroughness the Standing Committee made the "investigation" which resulted in the amalgamation of two Pews into one, and the surrender of a valuable part of the property of the Corporation. It should also be remarked, that while Samuel Johnson, Jr. was owner for five years of this self-deeded non-existent Pew, No. 86, he performed an active part in the affairs of the Society as a member thereof.

Note F, page 16.

April 11, A. D. 1848. "By motion of Mr. George R. Sampson, Article 8th of the By-laws was altered so as to provide that "no expenditure for any one object or purpose exceeding *Two Thousand Dollars*, and no grant or donation, except compensation to corporate officers, shall be made without the approval of the Proprietors." When the motion for the appointment of an investigating committee was made, the utter disregard, by the Standing Committee, of this provision in the By-laws was pointed out by the mover, when it was made apparent that not only they, but a larger part of the Society present, were entirely ignorant of its existence, although it had been the law for several years. It is suggested, that an annual report of the proceedings of the proprietors, distributed throughout

the Society, would prevent such occurrences in future, and serve to perpetuate a general knowledge of the history and affairs of the Corporation.

NOTE G, page 17.

The unwarrantable act of jurisdiction over the Clerk of the Society, who by law is amenable to the Society alone for all acts performed in his official capacity, is shown by two votes on motions by Mr. Homer, and carried in Standing Committee,—"Voted that the sum of One Hundred and Fifty Dollars be paid to Mr. U. H. Crocker, late Clerk of the Old South Church, for services from April 1st, 1856 to January 1st, 1857,"—when the time for which the Clerk was elected was for "One Year, or until his successor was chosen and qualified," which time was, as before stated, *not until April* 20, 1857. At another meeting it was voted, That Dea. Lothrop be paid for his Services as Clerk for One Year, the Sum of *Two Hundred Dollars.*

By these two votes, offered by the same member of the Standing Committee, that body assumed the power of altering the lawful term of office, and rewarding in the one case any labors acceptable to them, while in the other, due punishment for any thing they disliked was meeted out by a curtailment of the Salary, for three months in the official term, for which he was lawfully elected, and from which he could only be ejected by the just action of the power which elected him.

NOTE H, p. 17.

A reference to the resolution for an inquiry into the affairs of the Society before alluded to, and to the manner in which the disgraceful meeting of 1857 was conducted, is sufficient to establish the truth of this charge.

NOTE I, page 18.

To show the facility with which large sums of money were appropriated in raising salaries, donations, &c., the following incident will be sufficient: At the annual meeting, A. D. 1857, a member

and officer of the Society facetiously asked the chairman "if all the money they authorized the Treasurer to borrow ($6,000) had been voted away, if not he should like to put in for some of it."

How does the following, Sect. 18, chap. 20, of the Revised Statutes affect the proceedings of the Old South Corporation? particularly in the system of borrowing money? Who is accountable for its final payment, as the trust funds are not transferable?

"The qualified voters of every parish and religious society, at the annual meeting, or at any other meeting regularly notified seven days at least before the holding thereof, may grant and vote such sums of money, as they shall judge necessary for the settlement, maintenance, and support of ministers or public teachers of religion—for the building or repairing of houses of public worship;—for sacred music;—for the purchase and preservation of burial grounds, and for all other necessary parish charges; all of which sums shall be assessed on the polls and estates of all the members of the parish or society, in the same manner and proportion as town taxes are by law assessed."

Does not this law also guard societies against running in debt? Having this property in our possession cannot give us a power that other societies do not possess. If so, are not the Proprietors liable?

APPENDIX.

EXTRACTS

FOR THE

INFORMATION OF THE CONCERNED.

At a meeting of the brethren of the Church and Congregation of the South Church in Marlborough Street, September 21, 1752.

Hon. Thomas Hubbard, Esq.* *Moderator.*

At which time a number of important votes were passed, and the meeting adjourned to October 9th. At which meeting a number of votes were also passed. And the meeting further adjourned to Nov. 21. At which time the following vote with many others were passed, viz. At an adjournment Nov. 21, 1752, Voted "that a suitable book be provided for recording the votes and proceedings of the Church and Congregation, and the votes heretofore passed and entered in the Church Book be transcribed into the Book now to be provided, and that this Book be in the keeping of the Deacons."

The meeting further adjourned to Dec. 11. And after passing a number of votes adjourned again to Jan. 15th, 1753. The votes passed at these several meetings will appear very interesting to the Society, and for this reason among others, it may be found expedient to refer.

The following Extracts of the votes passed and copied from the above mentioned book in 1800, such as relate more particularly to the building the New Stores now called South Row, and the funds belonging to the Society is submitted.

Errors excepted.

Boston, March 20th, 1807.

* One of the Deacons of the Church.

EXTRACTS.

FAST Day, 3d April, 1800, the brethren of the Church and Congregation stayed after the service in the afternoon.

It was agreed in consideration of the interesting business which was before the society, that a Clerk should be chosen to write the votes which might be passed.

Gen. John Winslow, was chosen for this business.

The report of the committee chosen in the preceding year, and appointed to take into consideration the right and propriety of building a number of stores on the land belonging to the *Society* adjoining the meeting house, was twice read by the Moderator: it is as follows:

Boston, March 20th, 1800. Your committee having met together at different times, to consider the business referred to them by the *South Society*, are of opinion it would be for the interest of said *Society* to erect on the land belonging to *them* fronting the Main Street, five handsome brick stores, agreeably to a plan, exhibited some time since by Mr. Dawes.

Your committee wishing to be possessed of the opinions of able lawyers respecting the *Society's right* of building on land given by Mrs. Norton, have called on Theophilus Parsons, Esq. attorney at law, whose opinion they have in writing, which is, that *said Society have* a clear right to make use of said land in *any way* they please, as said land in the opinion of your committee, cannot be improved to the benefit of said *Society* in any better way than by erecting said stores, it appearing by estimate that the whole expence will not exceed ten thousand dollars to compleat them, and they may be rented without any difficulty to good tenants for the sum of two thousand or two thousand five hundred dollars per annum, which will give an interest of from twenty to twenty-five per cent. for their money. If this statement is a true one, and the *Society's* money can be borrowed for erecting said buildings, even if the *Society* pay the interest for the same at the rate it is now said to produce, which is

nine per cent., there must then remain an overplus of from eleven to sixteen per cent., which would enable the *Society* amply to pay, with the present tax on the pews, not only the *present* Minister, but an *additional one*, provided *the Society* should chuse to expend it in that way, *in doing which it is the opinion of your committee*, the views of the donor not only of the land, but those also who have left legacies from time to time, will be fully answered, as the *Poor of said Society* will have as much as they now receive, and the other will be laid out in pious uses for the support of public worship. All which is submitted by order,

WILLIAM HOMES, *Chairman of the Committee.*

After the foregoing report had been duly conversed on at a *numerous* meeting of the *Society*, the question was moved for and put, whether the same should be accepted: *Voted* to accept the same, *nemine contradicente.*

Voted to come to the choice of a committee for the ensuing year. Messrs. Joseph Peirce, Joseph Eaton, and William Phillips, Jun. were appointed to collect, count and sort the votes.

Voted that said committee, for the year ensuing, shall consist of *five* members of the church and *four* of the congregation.

The following persons were declared to be chosen, viz.

John Sweetser, Esq.
Mr. William Homes,
Mr. Samuel Coverly,
Mr. Ephraim Copeland,
Mr. Daniel Bowen.
Gen. John Winslow,
Thomas Dawes, Jun. Esq.
Mr. Andrew Oliver,
Col. William Scollay.

Voted, that there be a committee of *five* appointed to examine into the state of the Society's funds, and report the sums of monies and their *different appropriations.* The following persons were chosen, viz.

Gen. John Winslow,
Col. William Scollay,
John Sweetser, Esq.
Thomas Dawes, Jun. Esq.
Mr. Joseph Peirce.

Voted that the meeting be adjourned to such time as the com-

mittee to examine into the state of the funds shall appoint, and the said committee is requested to make report as soon as possible.

JOSEPH ECKLEY.

The following is an *extract* of the *deed* of *gift* from *Mary Norton*, relict widow and sole executrix of the last will and testament of the Rev. John Norton, teacher of the first church in Boston, *conveying the land* to the Old South *Society*, on which it is proposed to build the stores, and *the land* on which the meeting house now stands. The deed is dated the first of April, 1669, and expresses that the land is given "To Capt. Thomas Savage, Capt. William Davis, Mr. Hezekiah Usher, Mr. Edward Rawson, Mr. John Hull, Mr. Peter Oliver, Mr. Josiah Scottow, Mr. Edward Raynsford, Mr. Richard Trewsdell and Mr. Jacob Eliot, and such as they shall *associate* to themselves their heirs and successors forever, for the erecting of a house for their assembling themselves together publickly to worship GOD. As also the erecting of a dwelling house for such minister or ministers, as shall be by them and their successors from time to time orderly and regularly admitted for the pastor and teacher of the said church or *assembly*, and for the accommodation of the dwelling house, for the minister or ministers, as shall from time to time be chosen as aforesaid, and for the accommodation of the meeting house with convenient passages of ingress, egress and regress, for the people that shall from time to time assemble as aforesaid—and for no other intent, use, or purpose whatsoever.—The deed is recorded in full, lib. 6, fol. 26, in the Register of Deeds office.

The following is a copy of the writing giving by Theophilus Parsons, Esq. referred to in the foregoing report of the committee.

"CASE."

Mary Norton by her deed executed April 1, 1669, conveyed a lot of land in Boston to Thomas Savage and others and their associates, who are now the Old South Society in Boston, to them, their heirs and successors forever, for the erecting an house of public worship, and also of parsonage houses for their ministers and for the accommodation of the parsonage, and also of the meeting house with convenient passages, *and for no other use intent or purpose*

whatsoever. The grantees entered under the said conveyance, and they and their successors have ever since been seized of the premises. On the same they erected a meeting house and two parsonage houses. One of the parsonage houses has been down for some years, and the scite of it is vacant ground. Question—can the *Society* erect buildings or stores on that vacant scite to let out for the purpose of applying the rents for the support of public worship and for the benefit of the said *Society?* Answer—As the conveyance is to the grantees their heirs and successors forever, without any words of *condition or limitation* annexed to the fee, it is my clear opinion that the *Society* may erect the building or stores aforesaid for the said purposes—that the words "and for no other use, intent or purpose whatsoever," contain only *a direction*, a deviation from which will not defeat the title of the Society."

"*March* 14, 1800. Signed, THEOPHILUS PARSONS."

April 22, 1800. The brethren of the church and congregation met at the desire of the committee chosen to examine the state of the funds. The committee made the *following report.*

Boston, 18*th April*, 1800. Your committee appointed to examine into the state of the funds of the South Church and Congregation, to endeavor to find from what source they have arisen, and the intentions of the donors, have attended that business, and beg leave to report, that on examining, they find them to have arisen as follows, viz.

Given by sundry persons for the poor of the church to the care of the deacons of the church,				£	102	18	4
Given by sundry persons for the poor of said church to the care of the ministers and deacons of the church,					153	6	8
Given for the poor of the church and congregation to the care of ministers and deacons,	£	5	12	0			
Given by Mr. Mills,		100	19	10			
*Given by Mr. Cunningham,		66	13	4	173	5	2
Amount carried forward,				£	429	10	2

* We also find an old bundle of papers that is wrote on "Six bonds from sundry persons for £280 due the Old South Church, the interest whereof to be disposed of to the poor of the church and congregation Dec. 31, 1729." *Note*, it appears that *these* monies were never paid by the debtors.

Amount brought forward,	£ 429	10	2
Collected at sundry times the interest to the use of ministers, widows and children,	66	19	2
Given to the poor of the church, not mentioned to whose care,	6	0	0
Given and not mentioned whether to the use of the church or the church and congregation,	8	0	4
Collected from May, 1757 to 1773 for the use of the palls,	46	7	6
Balances arising from the sacramental collections at different times to the year 1766, over and above what paid the expences,	186	19	5
We find by the church book given by sundry persons, which we find no minutes in the papers for what use, but as they are entered in the church account, suppose for their use,	136	14	5
Amount of the whole, lawful money,	£ 880	11	0

This was in possession 1766, and at interest, and has been used ever since the war coming on in about nine years after this time, and the monies remaining during that period, must have accumulated considerably; after peace came on the money was generally called in, and invested into public funds, where it now remains, and is as follows, viz.

Massachusetts Bank Shares 16 at 500 *dollars* each,		$ 8,000	00
Forty-two and half Union Bank Shares, at 8 *dollars*,		340	00
Samuel Hinkley's & Co. Bond,		416	66
Three per cent. stock - -	$ 2,391 40		
Ditto - - - -	194 35		
Ditto - - - - -	2,350 00	4,935	75
Eight per cent. stock - - -		600	00
Five and half per cent. ditto - - -		1,000	00
Massachusetts State Notes 5 per cent. -		709	37
Deferred stock of United States - -		60	93
Dolls.		16,062	71

All which is submitted, per Order,

JOHN WINSLOW, *Chairman.*

Voted, That so much of the monies in the hands of the treasurer belonging to them as church and congregation, be borrowed, and improved by erecting the five brick buildings on the land belonging to them, agreeably to a vote passed the 3d day of April last.

Voted, That a special committee of *five* be balloted for, to contract for, and procure the materials necessary for building the stores. Mr. Samuel Coverly and Mr. Andrew Oliver were appointed to receive and count the votes.

It appeared that the following persons were chosen on this committee, viz. Thomas Dawes, Sen. Esq. William Phillips, Jun. Esq. John Sweetser, Esq. Gen. John Winslow, and Col. William Scollay.

Voted, That the committee of nine persons, *five* of the church, and *four* of the congregation, have the same powers as their committee was possessed of in 1787.

Voted, That a committee of *five*, three of the church, and *two* of the congregation, be desired to apply to the Trustees—The Minister and Deacons—for the loan of the sum necessary to defray the expences of building the stores. Mr. Joseph Peirce, John Sweetser, Esq. Mr. Samuel Coverly, Gen. John Winslow, and Col. William Scollay, were chosen. JOSEPH ECKLEY.

May 11*th*, 1800. At a meeting of the brethren of the church and congregation,

Voted, That the committee appointed on the 22d of April last, to borrow monies of the Minister and Deacons, to defray the expences of erecting stores on the society's land, be hereby discharged from that duty. And it is Voted.

That the Minister and Deacons be requested, and they are hereby authorised, to pay and deliver from the money of the church and congregation, to the committee, contractors appointed on the said 22d April, and to any other committee that may be employed to erect said stores, all such sums of money, as may from time to time, be found necessary by such committees for building said stores: said committees rendering regular accounts thereof to said minister and deacons, so that it may appear how much of said money shall be transferred and changed from their present situation, to the property in said stores: And whatever monies shall be so paid and delivered, shall be considered as having been duly accounted for by said minister and deacons, the present trustees thereof.

And the said minister and deacons shall at all times be entitled to receive *so much of the rents* and income of said stores, as shall amount to *six per cent.* per ann. upon the monies they shall pay and deliver as aforesaid, to the end that they may be enabled to appropriate the same, in like manner as the interest of said monies has heretofore been appropriated, according to the pious intentions of the donors thereof.

And, as it is highly probable that the rents and income of said stores, will exceed the rate of six per cent. per annum upon said monies, by reason that the value of the land will be added to the value of the stores; it is therefore *voted*, that whatever rents and income said stores shall produce, over and above the legal interest on said monies, shall go into the hands of the treasurer, distinct from any funds of the society, and *shall be used and applied for the purposes* set forth in the committees report of the 20th of March last, and which was accepted the 3d April last, in such manner as the church and congregation shall from time to time *vote and determine;* or for such *other ecclesiastical* purposes as they shall order.

Whereas, on the 3d day of April last, the society came into the resolution of building five stores, according to a plan exhibited by Mr. Dawes. *Voted*, That in the article of the *depth* of said stores, proposed in said plan to be *forty feet*, the committee for erecting the buildings be authorized to make an alteration, if on further consideration they shall judge it proper. JOSEPH ECKLEY.

N. B. The stores were afterwards built according to the plan first proposed.

Sabbath Day, 21*st Sept.* 1800.

The brethren of the church and congregation staid after the service in the afternoon, and agreed to meet on Tuesday the 23d instant, at 4 o'clock P. M. in order to act on some business relating to the new stores, now almost completed, and also to consider the subject contained in a report to be made by the annual commmitee respecting the singing. JOSEPH ECKLEY.

April 28*th*, 1801. At a meeting of the society held by adjournment, the report of the committee on the treasurer's accounts, and on Mr. Winslow's, was read, and is as follows.

"The committee appointed to examine the accounts of the treasurer of the South Society, and those of the treasurer of the committee for building the stores now called *South Row;* Report, that they have attended the business, and find the accounts of Mr. Treasurer Phillips, to have been correctly kept, and the following to be the statement thereof, viz.

Securities of various denominations in the hands of the treasurer, - - -		$ 15,781 61
Securities belonging to legacies given for the quarterly charity meeting, whereof the interest is occasionally distributed, - -		1,807 39

Note,—the particular species of securities which compose the first mentioned sum of $15,781 61 are as follows, viz. 16 shares in the Massachusetts Bank, nominal value $8,000;—*Three per cent* stock, $4,741 40 at 10 *s.* 6 *d.* specie value, $ 2,406 00

Balance of S. Hinkley's bond,	$135 56	135 56
Deferred stock, - - -	60 93 at 17*s.* 5*d.*	53 41
State Notes, - - -	709 37 at 17*s.* 5*d.*	617 40
5½ per cent. stock, -	1,000 00 at 17*s.*	850 00
8 per cent. stock, - -	600 00 about 7 per cent. over par, - - - - - -	645 00
42½ shares in Union Bank,	340 00 at 30 per cent. over par - - - - - - -	412 00
3 per cent stock, - -	195 35 at 10*s.* 6*d.*	102 3
Amount of the securities in specie value, exclusive of the 16 Bank Shares, and of the $1,807 39 belonging to the quarterly charity meeting is - - -		$5,221 40

Statement of sundry balances belonging to the South Society, in the hands of the treasurer:

Cash of quarterly charity, -	$35 88	appropriated
Cash of the Thanksgiving collection, -	34 92	appropriated
Cash belonging to the church, -	173 63	appropriated
Cash of church and congregation, -	290 54	
Cash produced by real estate, -	823 96	
	$1,358 93	

Statement of John Winslow, Esq. account, as treasurer for building the stores, viz.

Amount of accounts he has paid which are well vouched,		$14,065 90
Amount of cash he received of William Phillips, Esq. - - -	$14,000 00	
Ditto received for lumber, old posts, &c.	40 10	
Balance due Mr. Winslow, - -	25 80	$14,065 90

All which is submitted by

BENJAMIN CLARK,
SAMUEL SALISBURY,
JOSEPH PEIRCE,
} *Committee*, *April* 25, 1801.

Voted, That the report of the committee on the Treasurer's and Mr. Winslow's accounts be accepted.

Voted, That the monies that have, or that may arise from the rent of the new stores, be *appropriated* to the extinguishing the balance of the debt due for the building the said stores, after the sale of the several species of securities which the Treasurer is hereby authorised to dispose of belonging to the Church and Congregation in his hands, the specie value of which is supposed to be $5,221.40.

MRS. NORTON'S DEEDS

WITH AN

EXTRACT FROM HER WILL.

In addition to the Extracts from the Records of 1800, it has been thought best to attach exact copies of the *two Deeds*, and an *Extract from the Will of Mrs. Norton*, in which is the whole title of her Bequest to the Old South Church. One of the Deeds was entered on the records on the day of its execution, the other *was not on record in the year* 1800. After diligent search it was found among some papers in the Old South steeple-chamber, then used for the Prince Library, *One Hundred and Twenty Three Years* after its date, and was recorded about *four* years afterwards. A perusal of these documents will at once show that they were carefully drawn up, and their purposes defined in the very plainest manner, leaving no discretion as to the "conditional" uses for which the property was designed by the donor. As they have never been printed, it is earnestly hoped that their publication may be the means of inducing a more systematic method of procedure in future in the care of their trusts.

FIRST DEED.

"To all Christian People, to whome these presents shall come, I, Mary Norton, the Relict, Widow, and sole Executrix, to the last will and testament of the late Reverend my Deare, and Honored Husband Mr. John Norton, teacher of the first Church of Boston, in the County of Suffolke, in the Colony of Massachusetts, in New England, send Greeting. Know yee, that I the said Mary Norton, for divers good causes and considerations, mee thereunto moving,

and more especially for, and in consideration of that indeared affection, that my late deare husband, in his life time did beare, and my selfe doe beare, unto his and my assured ffriends—Captaine Thomas Savage, Capt. William Davis, Mr. Hesekiah Usher, Mr. Edward Rawson, Mr. John Hull, Mr. Peter Olliver, Mr. Josiah Scottow, Mr. Edward Raynsford, Mr. Richard Trewsdall and Mr. Jacob Elliott, all of the said Boston, *and in confidence of their faithfullness to performe that Trust which I shall repose in them*, Have absolutely Given, granted, allienied, enfeofed and confirmed, and by these presents doe fully, clearly and absolutely, Give, Grant, alliene enfeoffe and Confirme unto them the above named Thomas Savage, William Davis, Hesekiah Usher, Edward Rawson, John Hull, Peter Olliver, Josiah Scottow, Richard Trewsdall, Edward Raynsford and Jacob Elliott, for the use and uses purpose and purposes hereafter mentioned, *conditioned and expressed;** one parcell of land situate lying and being within the Limmetts of Boston Towne, above named, and is part of the land that is adjoining, to my now mansion house, the said given and Granted premises, containing by estimation, fifty five poles or pearches, more or less, and is bounded from the corner post next Nathaniel Reynolds, along the high street leading from Roxbury to Boston seaven length of rails being seaunty nine foote and a halfe, from thence to the middle fence now standing and parting of orchard, and the pasture six length of rail from the lane or street leading to Mr. Peter Olliver's, and soe back into the pasture, ninety five foote, the said length of rails conteyning seaunty one foote or thereabouts, from thence to the dividing fence betweene the said pasture and Mr. Richard Price, his Garden, one hundred foote and alongst the said fence, this lane aforesaid sixty foote and from thence to the said Corner aforesaid, next the said Nathaniel Reynolds his dwelling house Two hundred thirty eight foote and one half foote, bee it more or less. To Have and to Hold the above granted Premises bee the same more or less with all the priviledges and appurtenances to the same apperteyning or in any wise belonging unto them the said Thomas Savage, William Davis, Hesekiah Usher, Edward Rawson, John

* Do not these words "conditioned and expressed," limit the uses for which the property is held? and if so, how can the opinion of Theophilus Parsons, Esq. that the clause is a "direction" and not a "condition" be sustained.—*See Gray* vs. *Blanchard*, 8 *Pickering*, 284.

Hull, Peter Olliver, Josiah Scottow, Richard Trewsdall, Edward Raynsford, and Jacob Elliott, and to such as they shall associate to themselves, their heirs and successors forever, for the erecting of a house for their assembling themselves together publiquely to worship God. As also the erecting of a dwelling-house for such minister or ministers as shall bee by them and their successors from time to time orderly and regularly admitted for the Pastor, or teacher, to the said Church or Assembly, and for the accommodation of the said dwelling house, for the minister or ministers as shall from time to time, and bee chosen as aforesaid, and for the accommodation of the meeting house, with convenient passages of ingress, egress, and regress, for the people, that shall, there from time to time assemble as aforesaid, *and for noe other intent, use or purpose whatsoever.*

" And I the above named Mary Norton, sole Executrix as above is expressed for mee my heires Executors and Administrators doe Covenant, promise and grant to and with the said Thomas Savage, William Davis, Hesekiah Usher, Edward Rawson, John Hull, Peter Olliver, Josiah Scottow, Richard Trewsdall, Edward Raynsford, and Jacob Elliott, their and every of their heires Executors, and Administrators and assigns, by these presents that I the said Mary Norton, now am and at the Ensealing hereof stand and bee the true and proper owner of the above Granted premises, and that I have good right, full power and lawful Authority, to Give, grant, bargaine, and confirme, the same, unto them the said Thomas Savage, William Davis, Hesekiah Usher, Edward Rawson, John Hull, Peter Olliver, Josiah Scottow, Edward Raynsford, Richard Trewsdall and Jacob Elliott, their heires and successors forever.

" And that the said Thomas Savage, William Davis, Hesekiah Usher, Edward Rawson, John Hull, Peter Olliver, Josiah Scottow, Richard Trewsdall, Edward Raynsford and Jacob Elliott and Company, which they shall associate to themselves and their successors shall and may at all times, and from time to time forever hereafter, have, hold, possess, and enjoy all the above given and granted premises, to the use and uses, intents and purposes *as above is Expressed*, without the least denyall or Contradiction, of mee the said Mary Norton, my heires Executors Administrators and assigns, or by any other person or persons, whatsoever, having clayming or pretending to have or clayme, any Lawfull right and use or interest

therein by from or under mee, or by from or under my late Revderend an deare husband Mr. John Norton deceased, or any of his estate, or either of our heires, Executors Administrators or assigns. In Witness hereof I the above mentioned Mary Norton, have hereunto putt my hand and seall the first day of Aprill One Thousand six hundred sixty and nine, being the one and twentieth yeare of the Reigne of Sovereigne Lord Charles the second of England, Scotland, France and Ireland, King Defender of ye faith yr 1669.

"MARY NORTON, *with seale appending.*

"*Signed Sealed and delivered after possession was given and taken of the within granted premises in the presence of us.*

J. HINCKSMAN.
JOHN GREENLEAF.
SOLOMON RAYNSFORD.

"Mrs. Mary Norton within named freely Acknowledged this Instrument to bee her owne Act and deed, and by her signed and sealed, Aprile 1st, 1669.

"Before THOMAS DANFORTH, *Assistant.*

"Entered and recorded (Lib. 6, folio 26, Suffolk Records:) word for word, and Compared with the originall this 1st of Aprill 1669. "As Attest, EDWARD RAWSON, *Recorder.*"

SECOND DEED.

"To all Christian People, to whom these presents shall come, Mary Norton, relict, widow and Executrix of the last will and testament of the late Reverend and her deare husband Mr. John Norton, Teacher of the ffirst Church of Christ, in Boston in the County of Suffolke, in the Collony of the Massachusetts in New England sendeth greeting. Know ye that I the said Mary Norton, for divers good causes and considerations, me moving thereunto, especially for and in consideration, of that endeared affection that my late Deare husband did beare unto his and my assured friends, Capt. Thomas Savage, Mr. Wm. Davis, Mr. Hesekiah Usher, Mr. Edward Rawson, Mr. John Hull, Mr. Peter Olliver, Mr. Josiah Scottow, Mr.

Edward Raynsford, Mr. Richard Trewsdall, and Mr. Jacob Elliott, all of the said Boston, in confidence of their faithfullness did on the first day of April, 1669, give and grant unto the persons above mentioned, a certain piece and parcell of my orchard and land, to build them a meeting-house upon, and for the building of an house for the ministry, as in that deed reference thereto being had, amply doth and may appear: And in remembrance of their faithfull love to me, since my said late deare husband's death, and their erecting a meeting house on the place, and becoming a Church of Christ, with whome I have held communion ever since: and the Deacons of the said Church, looking to and after the repairing of my dwelling house wherein I live: Upon their invitation and coming of the late Reverend Doctor Leonard Hoare, and for an habitation for a Minister on my desire and encouragement, they have been at the sole charge of that new additional end or building of a cellar and house over it, Kitchen Hall, Chambers and Garretts, having promised them to give them the land on which they built with some privileges thereunto. In performance of which my faithfull promise, Know all men that I the said Mary Norton, have absolutely, clearly and fully, given, granted, bargained, sold, aliened, enfeoffed and confirmed, and by these presents doe, absolutely give, grant, bargain, sell, aliene, enfeoffe and confirme, unto them the said Thomas Savage, Edward Rawson, John Hull, Josiah Scottow, Edward Raynsford, and Jacob Elliott, yet alive and to such as they have associated unto them in church fellowship, or shall be associated to them, and to their heirs and successors, forever, *for the ends and purposes in the first above mentioned, deed of April the* 1*st*, 1669, *is fully and amply declared, reference thereto being had may appeare*, all that *peace* of land on which they built the said additional Cellar, Kitchen Hall, Chambers, Garretts, as it is adjoyned to the Easterly part of my now dwelling-house, being in breadth twenty two foot, and in length from my said house, to the gateway that goes into my orchard, with full and free liberty to them the said Thomas Savage, Edward Rawson, John Hull, Josiah Scottow, Edward Raynsford and Jacob Elliott their heires and associates, as above sd of ffree egress and regress up and downe the stares, on all their occasions into their cellar and chambers and garretts, with free use of the Kitchen cellar, and Chimney for their washing and brew-

ing from time to time. So as they interfere not, with the brewing and washing days, of such minister or ministers, as shall inhabit and dwell in that part of the dwelling house I now live in, with liberty in, and priviledge of the yard to lay twenty cords of wood in. And also to pass through both the yards at one end and at the other, and the orchard to the meeting-house, from time to time and at all times, as they and their heires or successors shall or may have occasion. To Have and to Hold the granted *peace* or parcell of land with the house thereon erected, with the libertys, priviledges and appurtenances, thereunto bounded and belonging, *as above expressed*, for the ends and uses, of the ministry that now is, or from time to time shall be called by them the said Thomas Savage, Edward Rawson, John Hull, Josiah Scottow, Edward Raynsford and Jacob Elliott, and such as now are associated to them or shall be associated to that Church society forever, their heires and assigns, for their public worshiping of God for the use of their ministers or ministry, orderly chosen by the said society, being the third Church of Christ in Boston, from time to time and at all times forever. And I the said Mary Norton sole Executrix of my late Reverend deare Husband John Norton's last will and testament for mee my heires Executors and Administrators, doe covenant promise and grant to and with the said Thomas Savage, Edward Rawson, John Hull, Josiah Scottow, Edward Raynsford, and Jacob Elliott, their and every of their heires and successors, members of the said society, by these presents that I the said Mary Norton now am and at the ensealing hereof stand and bee the true and proper owner of the above granted premises, and that I have good right, full power, and lawfull authority to give, grant, bargaine and confirme the same unto the said Thomas Savage, Edward Rawson, John Hull, Josiah Scottow, Edward Raynsford and Jacob Elliott and company which they shall associate to themselves, and their successors and heirs forever. And that the said Thomas Savage, Edward Rawson, John Hull, Josiah Scottow, Edward Raynsford and Jacob Elliott and their company which now are, or they shall associate to themselves, shall and may at all times, and from time to time, forever hereafter have, hold, possess and enjoy, all the above given and granted premises, *to the use and uses, intents and purposes, as above is expressed*, without the least lett, denyall,

or contradiction of mee the said Mary Norton, my heires, Executors, Administrators, or Assigns, or by any other person or persons whatsoever, having, claiming or pretending, to have or claime, any title right or interest therein, or by from and under my late Reverend and deare Husband Mr. John Norton deceased, or either of our heires, Executors Administrators or Assigns. In Witness whereof I the said Mary Norton, have hereunto set my hand and seale the thirtieth day of June, in the year of Our Lord One thousand six hundred seventy and seven, and the 29th year of his Maj's Reigne.

"MARY NORTON, *and a seale.*

"*Signed, Sealed and delivered in the presence of us, the grantors being already in possession of the above granted premiss.*

JOHN HUBBARD.
JOHN HAYWARD, *scr.*

"This instrument was acknowledged by Mrs. Mary Norton to be her act and deed this 30th of June, 1677 before me,

"SIMON BRADSTREET, *Assistant.*

"Jan'y 13th, 1804. Recorded, Entered (Suff. Record of Deeds Lib. 207, fo. 241) and Examined.

"Pr. WM. ALLINE, *Reg'r.*"

EXTRACT FROM THE WILL.

"Item.—I give and bequeathe unto the Third Church of Christ, in Boston, my now dwelling house, with all the land belonging to the same, as it is situate near the third meeting house, in Boston aforesaid, with all profitts, privileges rights and appurtenances whatsoever, to the same belonging and appertaining, for the use of the ministry in the said Church, successively forever. And my will further is, that the said Third Church or some person or persons, in their behalf shall be possessed of the said house and land, with the rights and appurtenances at and immediately after my decease, for the reasons following: First because many of the particular

members of the said Third Church have been large contributors to that meeting house, and Church treasure from which they issued. Secondly, because of the great charge that the brethren of the said Third Church have been at in building their meeting house. Thirdly, because I conceive it will prove inconvenient for a minister to live so near a meeting house, where he doth not preach. Provided always that the said Third Church, or some person or persons, in their name and behalf pay, or cause to be paid unto the said First Church of Christ in Boston the full and just summe of One hundred Pounds of Lawfull money of New England within the space of one year after my decease, and my Will is that the payment of the said summe, and tender thereof be made at or in my now dwelling house."

(Dec., 1888, 20,000)

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